



Chartered Accountants Association, Ahmedabad *A Passion to Perform*



22nd September, 2017

To
Mr. Sushil Chandra
The Chairman,
Central Board of Direct Taxes
New Delhi

Dear Sir

Sub: Draft Notification for insertion of new Rule 39A in the Income-tax Rules, 1962 – comments and suggestions

We refer to the Notification (F. No. 370142/27/2017-TPL) dated 19th September, 2017 seeking comments and suggestions from the public on the proposed Rule 39A. We write to you on behalf of our members from across India.

The proposal of introducing a new Rule 39A in the Income-tax Rules, 1962 is totally unfair. If implemented, it will further increase the already existing heavy compliance burden on tax payers. It also ignores the very object of new scheme of advance tax introduced from A.Y. 1988-89. Such a rule, in practice, is likely to become a source of arm twisting exercise & harassment for meeting unrealistic collection targets, more so for tax compliant community of assesseees, as is evident from recent newspapers report before 15th Sept.

Generally, in such cases, large assesseees are indirectly forced to pay higher undue advance tax. Now, a new Rule is being framed for this purpose. This trend is dangerous & we believe that after some time, some powers may be given to officials for verification & effectively, assessment proceeding will indirectly start before furnishing the return of income. Such requirement initially looks innocent but the past experience shows that generally it invariably becomes source of corruption.

Apart from the above, interestingly, this rule is sought to be made applicable to assesseees covered by any of the Clauses of Sec 44AB and, unlike some of the TDS provisions, not restricted to Clauses(a)&(b) of Sec. 44AB and accordingly, will apply to small assesseees also if they do not declare income on presumptive basis as provided in Sec. 44BB, 44AD, 44ADA etc. Again, it seems that all foreign companies, being assesseees, may also get covered by the proposed Rule 39A(1).

Further, the income-tax department may not necessarily restrict the applicability of Rule 39A(2) only to the assesseees covered by Rule 39A(1).

Even the Form effectively requires periodic computation of income & expects tax payers to give reasons for less payment of advance tax compared to the earlier year.

The moot question is whether a businessman who is already suffering because of the current economic slowdown should keep on explaining his misery to the taxmen during the year or should he be allowed/encouraged to concentrate on improving the performance? Nobody, except some cases in sectors like real estate or sick industries, likes to defer payment of advance tax at the huge cost of non deductible interest. It should also be appreciated that ultimately, it's a question of making estimate of current business profit which will be based on so many uncertain factors and the perception of businessman, which will vary from person to person. How can Government expect a businessman to earn every year minimum 90% of profit compared to the earlier year or otherwise, explain his misery to Taxman during the year itself?

We strongly believe that the present government is committed to reduce corruption & eliminate tax-terrorism. However, the proposal for introducing Rule 39A is diametrically opposed to this commitment. The long-term impact of such a provision, in the context of the existing environment in our tax-administration should be openly & publicly discussed & debated before conceiving such a provision for achieving a short-term goal of collecting some extra advance-tax, which in any case needs to be refunded with interest in later years. Tax evaders, in any case, do not pay advance tax & such community should be dealt with differently in the strictest possible manner, but all assesseees cannot and should not be placed in such category.

Recently the Hon. Prime Minister had mentioned, while addressing senior tax-officials, that a major part of the tax collection is received by the Government by way of advance tax & TDS and enactment of such a rule will serve as a punishment for the tax payers of the country in light of the huge voluntary compliance burden. In fact, in the same address, the PM also pointed out the existing wide gap of trust deficit between the tax-payers & the tax-department. Such a move is only going to further widen this gap.

Therefore, on behalf of the tax paying community of India, and on behalf of the tax professionals who assist the tax payers in honestly complying with the tax laws of the country, we strongly urge you to drop the proposal of introducing Rule 39A into the Income-tax Rules, 1962.

Assuring you and the Government of India our fullest support in the massive nation building exercise that is in progress,

We remain,

Yours sincerely

Sd/-

Narayan R. Pasari
President,
Bombay Chartered Accountants' Society

Sd/-

Kunal Ashvin Shah
President,
Ahmedabad Chartered Accountants' Association

Sd/-

Raghavendra T.N.
President
Karnataka State Chartered Accountants' Association

Sd/-

Rajeev Sharma
President
Lucknow Chartered Accountants' Society